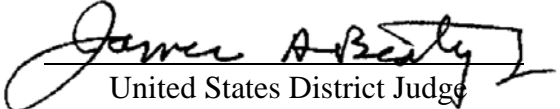


1:04CV782

Defendant Sink, and all claims against Defendant Montague and Defendant Sink are DISMISSED.

However, the Court notes that the Magistrate Judge's Order and Recommendation provided that all other issues raised in Defendants' Motion to Dismiss or for Summary Judgment [Document #18] and Plaintiff's cross-Motion for Summary Judgment [Document #21] be deferred until after discovery. Therefore, the remainder of Defendants' Motion to Dismiss or for Summary Judgment as to Defendant Potter [Document #18] and Plaintiff's cross-Motion for Summary Judgment [Document #21] are DENIED at this time, without prejudice to the parties refiling the motions in accordance with the Recommendation of the Magistrate Judge.

This, the 29th day of September, 2005.


United States District Judge